

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:05-CR-00004-F-1

UNITED STATES OF AMERICA

v.

DANIEL WATLINGTON,
Defendant.

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ORDER

This matter is before the court on Daniel Watlington's Response to Court [DE-612].

In his motion, Watlington argues that he is entitled to an addendum to his Presentence Report and a reduction in his sentence.

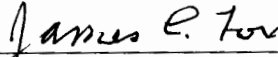
Because the relief Watlington is seeking is identical to the relief he could obtain through a successful motion filed pursuant to 28 U.S.C. § 2255, the court will treat his motion as filed pursuant to § 2255. *See United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003) (holding that "a motion directly attacking the prisoner's conviction or sentence will usually amount to a successive application.") Watlington previously filed a § 2255 motion that was addressed on the merits. *See* DE-568. Pursuant to 28 U.S.C. § 2244(b)(3)(A), "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Watlington has not provided any evidence that he has secured authorization from the Fourth Circuit Court of Appeals to file a successive § 2255 motion; thus, this court is without jurisdiction to consider the merits of the present successive § 2255 motion.

In light of the foregoing, Watlington's Response to Court [DE-612] is DISMISSED. The court finds that Watlington has not made the requisite showing to support a certificate of

appealability. Therefore, a certificate of appealability is DENIED.

SO ORDERED.

This, the 18th day of June, 2015.



JAMES C. FOX
Senior United States District Judge